

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

OTSUKA PHARMACEUTICAL CO., LTD.

Plaintiff,

v.

WOCKHARDT BIO AG, WOCKHARDT
USA LLC and WOCKHARDT LIMITED,

Defendants.

Civil Action No.: 14-1979 (JBS-KMW)

JOINT STIPULATION AND ORDER OF DISMISSAL WITHOUT PREJUDICE

Pursuant to agreement and stipulation between Plaintiff Otsuka Pharmaceutical Co., Ltd. and Defendants Wockhardt Bio AG, Wockhardt USA LLC and Wockhardt Limited (collectively "Wockhardt"), it is Ordered as follows:

1. Wockhardt Bio AG filed Abbreviated New Drug Application No. 20-5607 ("ANDA"), seeking FDA approval to market generic versions of Abilify® (Aripiprazole) Tablets.

2. Otsuka received a letter from Wockhardt Bio AG dated February 11, 2014, purporting to include a Notice of Certification for ANDA No. 20-5607 under 21 U.S.C. §§ 355(j)(2)(B)(ii) and (iv)(II) and 21 C.F.R. § 314.95(c)(6) as to U.S. Patent Nos. 8,017,615 and 8,580,796 ("the patents"). Wockhardt Bio AG's letter alleges that its ANDA contains a certification pursuant to 21 U.S.C. § 355(j)(2)(A)(vii)(IV) ("Paragraph IV certification") that the claims of the patents are invalid, unenforceable and/or will not be infringed by the manufacture, use, importation, sale or offer for sale of generic pharmaceutical products ("Wockhardt Bio AG's generic products").

3. Otsuka brought this patent infringement action against Wockhardt within forty- five days of receiving Wockhardt Bio AG's notice letter.

4. Without receiving any consideration of any kind from Otsuka, Wockhardt Bio AG has amended its ANDA to change its Paragraph IV certification to a certification pursuant to 21 U.S.C. § 355(j)(2)(A)(vii)(III) ("Paragraph III certification") with respect to the patents, confirming that Wockhardt Bio AG does not currently seek FDA approval of its ANDA prior to the expiration of the patents.

5. Without agreeing that jurisdiction over Wockhardt or venue in this District is proper, or otherwise acknowledging the validity, enforceability or infringement of the patents, Wockhardt agrees to the filing of this Joint Stipulation and Order of Dismissal.

6. This Action is hereby dismissed, without prejudice, and without costs or attorney's fees.

SO STIPULATED:

Date: October 28, 2014

Respectfully submitted,

<u>s/ Melissa A. Chuderewicz</u> Melissa A. Chuderewicz PEPPER HAMILTON, LLP 301 Carnegie Center Suite 400 Princeton, NJ 08543 (609) 452-0808 - Phone James B. Monroe Paul W. Browning Denise Main FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, LLP 901 New York Avenue, NW Washington, DC 20001-4413 (202) 408-4000 - Phone <i>Attorneys for Plaintiff Otsuka Pharmaceutical Co., Ltd.</i>	<u>s/ Sheila Raftery Wiggins</u> Sheila Raftery Wiggins DUANE MORRIS LLP One Riverfront Plaza 1037 Raymond Blvd., Suite 1800 Newark, NJ 07102 (973) 424-2000 - Phone <i>Attorneys for Defendants Wockhardt Bio AG, Wockhardt USA LLC, and Wockhardt Limited</i>
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ORDER

SO ORDERED.

DATED, this 3rd day of November, 2014


JEROME B. SIMANDLE, CHIEF JUDGE
UNITED STATES DISTRICT COURT